IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE A.K.BASHEER

MONDAY, THE 8TH OCTOBER 2007 / 16TH ASWINA 1929

MFA.No. 1294 of 2002

WCC.16/1998 of W.C.C.,ERNAKULAM
.....

APPELLANT: APPLICANT

C.B.KAREEM, S/O. BAPPU D.NO.CC.XXII/601,
THAZHAPPU KIZHAKKU VEETTIL, K.M.P.ROAD,
PALLURUTHY, KOCHI-6.

BY ADV. SRI.A.X.VARGHESE
SRI.SAJIV.C.K.

RESPONDENTS: OPPOSITE PARTY

M/S SOUTH INDIA PRODUCE COMPANY THE
PROPRIETOR DOOR NO.CC.VI/207, JEW TOWN,
MATTANCHERY, KOCHI.

BY

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 08/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.S.RADHAKRISHNAN & A.K.BASHEER, JJ.

- -

C.M.P.No.7768 OF 2002 &
M.F.A.No.1294 OF 2002

- -

Dated this the 8th day of October, 2007

JUDGMENT

Radhakrishnan, J

Even though notice has been ordered on 2.12.2002, but so far service of notice to respondents is not complete. We have perused the impugned order in WCC 26/98 dated 25.3.01. Appellant herein filed an application under Section 22 of the Workmen's Compensation Act claiming compensation. Appellant was employed as loading and unloading workman since 1972. On 16.8.97, while he was discharging his duty in the open yard of the company, appellant met with a serious injury and heavy pain in the chest arising out of the exceptional strain. Since his physical condition became serious appellant was admitted in hospital. Then the appellant underwent thorough checking in which the doctors diagnosed it was heart attack. Appellant claims a sum of Rs.1,96,000/- from the respondent as compensation for injuries and loss of earning capacity during the course of the employment. The appellant

himself was examined as AW1 and marked Exts.A1 to A5. It is held that the employer shall not be liable in respect of any disease unless the disease is directly attributable to a specific injury by accident arising out of and in the course of his employment. Court below dismissed the petition stating that petitioner had failed to establish that the disease was attributable to any specific injury and he failed to establish his case. Considering the entire facts and circumstances of the case, we find no reason to entertain this appeal.

Further, there is a delay of 570 days in filing this appeal. An affidavit has been filed stating the reasons for delay in filing this appeal. No grounds have been made out to condone delay. Hence, both the appeal and delay condonation petition are dismissed.

K.S.RADHAKRISHNAN, JUDGE

A.K.BASHEER, JUDGE

jes